

ORDINANCE NO. 2011-03

**AN ORDINANCE OF THE COCONINO COUNTY
BOARD OF SUPERVISORS AMENDING SECTIONS 11, 12, 13.3 AND ADDING
A NEW SECTION 14.9 OF THE ZONING ORDINANCE TO PROVIDE FOR
MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION FACILITIES**

WHEREAS, Arizona Revised Statutes Section 11-801, et seq., authorizes the Board of Supervisors to adopt a Zoning Ordinance for the County to protect the public health, safety, peace, comfort, and general welfare; and

WHEREAS, the Board of Supervisors adopted the current Zoning Ordinance in August 1981 and has amended it periodically since then; and

WHEREAS, Proposition 203 was enacted by the voters of Arizona amending Arizona Revised Statutes Section 36-2801 to provide for medical marijuana dispensaries and cultivation facilities; and

WHEREAS, the Planning and Zoning Commission held a duly noticed public hearing on January 4, 2011 and recommended to the Board that the amendments outlined in Case No. AM-10-002 be approved; and

WHEREAS, the Board of Supervisors has held a duly noticed public hearing on February 15, 2011;

NOW THEREFORE BE IT ORDAINED by the Coconino County Board of Supervisors that Sections 11, 12, 13.3, and 14 of the Coconino County Zoning Ordinance be amended as follows:

Section 11.1.B: Add medical marijuana dispensary as a listed use that is permitted in the CG and CH zones subject to the provisions of Section 14.9.

Section 11.1.B: Add medical marijuana cultivation and infusion facilities as a conditional use in the CH zones subject to the provisions of Section 14.9.

Section 12.1.E: Add medical marijuana cultivation and infusion facilities as a permitted use in the M-1-10,000 and M-2-6,000 zones subject to the provisions of Section 14.9.

Section 13.3-2.G: Add medical marijuana dispensaries subject to the provisions of Section 14.9.

Section 13.3-2.H: Add medical marijuana off-site cultivation and infusion facilities subject to the provisions of Section 14.9.

Add a new Section 14.9 as follows:

Section 14.9: Medical Marijuana Dispensaries and Off-Site Cultivation and Infusion Facilities

A. The purpose of this section is to establish a process, rules, and standards for the construction, establishment, and operation of medical marijuana dispensaries, and off-site cultivation and infusion facilities, pursuant to ARS §36-2806.01.

B. Definitions:

1. Medical Marijuana: All parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
2. Medical Marijuana Dispensary: A not-for-profit entity defined in ARS §36-2801(11) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, or dispenses marijuana or related supplies and educational materials to qualifying patients or their designated caregivers.
3. Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods.
4. Medical Marijuana Off-Site Cultivation Location: A building, structure, or premises associated with, but separate from a medical marijuana dispensary where cultivation, storage, infusion, and/or manufacture of medical marijuana products is accomplished.

C. Where Allowed:

1. Medical marijuana dispensaries shall be considered a permitted use in the CG-10,000 (Commercial General) and CH-10,000 (Commercial Heavy) Zones or in the PC (Planned Community) Zone in areas designated for development subject to CG-10,000 and CH-10,000 uses and development standards subject to the following performance standards and design requirements.
2. Medical marijuana off-site cultivation and infusion facilities shall be considered permitted uses in the M-1-10,000 (Light Industrial), and M-2-6,000 (Heavy Industrial) Zones or in the PC (Planned Community) Zone in areas designated for development subject to the M-1-10,000 and M-2-6,000 uses and development standards subject to the following performance standards and design requirements. Off-site cultivation and infusion facilities shall be considered conditional uses in the CH-10,000 (Commercial Heavy) Zone or in the PC (Planned Community) Zone in areas designated for development subject to CH-10,000 uses and development standards.

D. Performance Standards and Design Requirements:

1. Medical marijuana dispensaries shall be located in a permanent building, and may not locate in a trailer, cargo container, or motor vehicle.

2. Medical marijuana dispensaries shall have a single secure entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana pursuant to ARS §36-2806(C).
3. Medical marijuana dispensaries shall be a maximum of 2,500 gross square feet.
4. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within 500 feet of a public or private preschool, kindergarten, elementary, secondary, or high school, place of worship, or public park existing before the date of application for the medical marijuana dispensary or cultivation/infusion facility. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the business is conducted or proposed to be conducted to the property line of the protected use.
5. Medical marijuana dispensaries and cultivation/infusion facilities shall not be located within 500 feet of another medical marijuana dispensary or cultivation or infusion facility. This distance shall be measured in a straight line between the exterior walls of the buildings or portions thereof in which the businesses are conducted or proposed to be conducted.
6. Any medical marijuana dispensaries and cultivation/infusion facilities lawfully operating shall not be rendered in violation of these provisions by the subsequent location of a public or private preschool, kindergarten, elementary, secondary, or high school, place of worship, or public park.
7. Retail sales and dispensing of medical marijuana and related products is prohibited at off-site medical marijuana cultivation and infusion facilities.
8. Operating hours of medical marijuana dispensaries are limited to 8:00 am to 8:00 pm.
9. Drive-through services are prohibited.
10. There shall be no emission of dust, fumes, vapors, odors, or hazardous waste into the environment from any facility where medical marijuana cultivation or infusion occurs.
11. Marijuana remnants and byproducts shall be secured and properly disposed of and shall not be placed within the facility's exterior refuse containers.
12. Medical marijuana cultivation and infusion may occur within a medical marijuana dispensary. Otherwise, a medical marijuana dispensary may have one additional location where cultivation, infusion, and production of medical marijuana products occurs pursuant to ARS §36-2804(B)(1)(b)(ii).

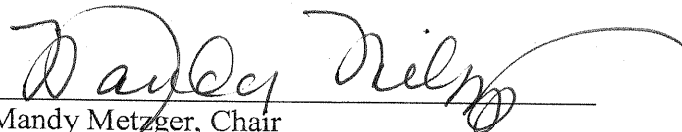
E. Permits Required:

1. Where medical marijuana dispensaries and cultivation/infusion facilities are classified as a permitted use, an administrative permit shall be obtained prior to establishment of the use. To obtain an administrative permit, an applicant must comply with paragraphs 3-10 of this section.
2. Where medical marijuana cultivation/infusion facilities are classified as a conditional use, a conditional use permit shall be obtained prior to establishment of the use. The standard conditional use permit application procedures and requirements shall be met along with additional requirements contained herein.
3. The applicant shall provide the name and location of the medical marijuana dispensary. For an off-site cultivation and/or infusion facility, the applicant shall provide the name and location of the dispensary with which it is associated.
4. If the applicant is not the property owner, the application shall include both the applicant's and property owner's signatures.
5. The applicant shall provide a copy of their dispensary registration certificate issued by ADHS pursuant to ARS §36-2804(B) and a copy of the operating procedures adopted pursuant to ARS §36-2804(B)(1)(c) along with a site plan, floor plan, and security plan.
6. If the dispensary and/or cultivation/infusion facility is proposed to be located in an existing building, the applicant shall obtain a building permit for change of occupancy with plans prepared by a professional architect registered in the State of Arizona.
7. A medical marijuana dispensary or infusion facility that incorporates medical marijuana by means of cooking, blending, or incorporation into consumable/edible goods shall obtain applicable food service permits from the County Health Department.
8. If the measured distance is within 25 feet of the required limits identified in Sections 14.9.D.4 & 5 above, a survey sealed by a registered land surveyor may be required, at the discretion of the Director of Community Development and at the applicant's expense, to verify the required separation.
9. Permit fees shall be as stipulated in the fee schedule adopted by resolution of the Board of Supervisors in effect at the time of application.
10. Permits may be denied if the applicant, in the reasonable opinion of the Director of Community Development, is failing to comply with any applicable state or local law or regulation.

PASSED AND ADOPTED this 15th day of February 2011 by the following vote:

AYES: 5
NOES: 0
ABSENT: 0


COCONINO COUNTY BOARD OF SUPERVISORS


Mandy Metzger, Chair

ATTEST:

APPROVED AS TO FORM:


Clerk of the Board

By: 
Deputy County Attorney